

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:)	
)	Case No. 21-07185
DONCO DONEV,)	Chapter 7
)	Hon. Janet S. Baer
Debtor.)	

NOTICE OF MOTION

To: See attached service list.

PLEASE TAKE NOTICE that on September 3, 2021, at 9:30 a.m. I shall appear before the Honorable Judge Janet S. Baer, or any judge sitting in her stead, and present U.S. Bank Equipment Finance, a division of U.S. Bank National Association's *Motion for Order Authorizing the Examination and Production of Documents Pursuant to Federal Rule of Bankruptcy Procedure 2004*, a copy of which is attached hereto and herewith served upon you.

This motion will be presented and heard electronically using Zoom for Government. No personal appearance at the courthouse is necessary or permitted. To appear and be heard on the motion, you must do the following:

To appear by video, use this link: <https://www.zoomgov.com/join>. Then enter the meeting ID and passcode.

To appear by telephone, call Zoom for Government at 1-699-254-5252 or 1-646-828-7666. Then enter the meeting ID and passcode.

Meeting ID and passcode. The meeting ID for this hearing is 160 731 2971 and the passcode is 587656. The meeting ID and passcode can also be found on Judge Baer's webpage on the court's website, <https://www.ilnb.uscourts.gov/content/judge-janet-s-baer>.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

U.S. BANK EQUIPMENT FINANCE,
a division of U.S. BANK NATIONAL ASSOCIATION,

By: /s/ C. Randall Woolley
C. Randall Woolley (ARDC #06280067)
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CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2021, I electronically filed U.S. Bank Equipment Finance, a division of U.S. Bank National Association's *Motion for Order Authorizing the Examination and Production of Documents Pursuant to Federal Rule of Bankruptcy Procedure 2004* with the Clerk of the Court using the CM/ECF system, which will send notification to the following:

- Timothy M. Hughes
thughes@lavellelaw.com
- Patrick S. Layng
USTPRegion11.ES.ECF@usdoj.gov
- Frank J. Kokoszka
trustee@k-jlaw.com

and I hereby certify that I caused the document to be served on the following non-CM/ECF participants via First-Class Mail:

- Donco Donev
7921 Knottingham Circle # B
Darien, IL 60561

/s/ C. Randall Woolley
C. Randall Woolley

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IN RE:)	
)	Case No. 21-07185
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)	Hon. Janet S. Baer
Debtor.)	
)	

**MOTION FOR AN ORDER AUTHORIZING THE EXAMINATION
AND PRODUCTION OF DOCUMENTS PURSUANT TO
FEDERAL RULE OF BANKRUPTCY PROCEDURE 2004**

NOW COMES Creditor U.S. Bank Equipment Finance, a division of U.S. Bank National Association (“U.S. Bank”), by and through counsel, and for its Motion for an Order Authorizing the Examination and Production of Documents (the “Motion”) of the Debtor Donco Donev (the “Debtor”) pursuant to Federal Rule of Bankruptcy Procedure 2004, states as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction in regard to this matter pursuant to 28 U.S.C. §§ 157 and 1334.
2. On June 7, 2021, the Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code (the “Petition Date”).
3. Frank J Kokoszka, 19 South LaSalle, Suite 1201, Chicago, IL 60603 has been appointed Chapter 7 Trustee in this case.
4. Venue is proper in this Court pursuant to 28 U.S.C. § 1409 as the relief requested by this motion constitutes a proceeding arising under and related to the Debtor’s Chapter 7 bankruptcy proceeding which is currently pending before this court.

BACKGROUND

5. On or about February 7, 2019, U.S. Bank, as Secured Party, and Mardon Trucking, Inc. (“Mardon”), as Customer, entered into Agreement No. xxx1027, which was assigned the internal contract number of xxx-xxx0926-000, (“Agreement No. 0926”) for the financing of one (1) 2015 Volvo VIN 4V4NC9EH3FN179473; one (1) 2015 Volvo VIN 4V4NC9EHXFN188574; one (1) 2015 Volvo VIN 4V4NC9EH4FN918267; and one (1) 2015 Volvo VIN 4V4NC9EH1FN188575 (“Equipment No. 0926”). A true and correct copy of Agreement No. 0926 is attached hereto as Exhibit 1.

6. On or about April 11, 2019, U.S. Bank, as Secured Party, and Mardon, as Customer, entered into Agreement No. xxx2137, which was assigned the internal contract number of xxx-xxx1538-000, (“Agreement No. 1538”) (collectively with Agreement No. 0926, the “Agreements”) for the financing of one (1) 2013 Freightliner VIN 3AKJGLDR7DSFH8915; one (1) 2014 Freightliner VIN 1FUJGLD54ELFL7625; one (1) 2014 Freightliner VIN 1FUJGLD61ELFP2390; and one (1) 2014 Freightliner VIN 1FUJGLD59ELFL7605 (“Equipment No. 1538”) (collectively with Equipment No. 0926, the “Equipment”). A true and correct copy of Agreement No. 1538 is attached hereto as Exhibit 2.

7. U.S. Bank perfected its first-priority security interest against Mardon and the Equipment by noting U.S. Bank as the first lienholder on the Certificates of Title for the Equipment. True and correct copies of the Equipment’s Certificates of Title are attached hereto as Group Exhibit 3.

8. To induce U.S. Bank to enter into the Agreements with Mardon, the Debtor executed continuing personal guaranties (the “Guaranties”) in which the Debtor guaranteed the full and prompt payment and performance of all of Mardon’s obligations under Agreements. True

and correct copies of the Guaranties are located on the face of the Agreements, attached hereto as Exhibits 1 and 2.

9. Mardon failed to make the payment due on July 11, 2020, and all payments due thereafter pursuant to Agreement No. 1538.

10. Mardon failed to make the payment due on August 7, 2020, and all payments due thereafter pursuant to Agreement No. 0926.

11. The Debtor failed to make payments due and owing under the Guaranties of the Agreements.

12. As a result of the payment default, U.S. Bank is entitled to payment of \$187,772.01, exclusive of prejudgment interest and attorneys' fees and costs.

13. On March 16, 2021, U.S. Bank filed suit against Mardon and the Debtor for breach of contract, breach of guaranty and replevin in the United States District Court for the Northern District of Illinois, as Case No. 21-cv-01453.

14. U.S. Bank estimates the value of the Equipment at \$113,000.00, depending on condition and market.

15. The Debtor is the President and sole shareholder of Mardon.

16. The current location of the Equipment is unknown.

17. Upon information and belief, the Debtor is no longer in possession and control of the Equipment.

ARGUMENT

18. Prior to the bankruptcy filing, the Debtor was unable to provide the location of the Equipment to U.S. Bank despite request.

19. U.S. Bank seeks to conduct a Rule 2004 examination of the Debtor. U.S. Bank seeks information regarding the location and potential sale, transfer or other disposition of the Equipment.

20. U.S. Bank further seeks leave to conduct discovery of third parties that may have possession and control of the Equipment.

21. Rule 2004 of the Federal Rules of Bankruptcy Procedure permits the examination of a debtor to discover “acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate, or to the debtor’s right to a discharge.” Fed. R. Bankr. P. 2004(a) (West 2021).

22. Here, a Rule 2004 examination of the Debtor is necessary for U.S. Bank to uncover details regarding the status of its Equipment and the secured amount of its claim.

23. Further, a Rule 2004 examination of the Debtor may uncover further avenues for recovery to the benefit of all creditors, including U.S. Bank.

24. The Debtor advises that he has no objection to this Motion.

WHEREFORE, U.S. Bank Equipment Finance, a division of U.S. Bank National Association, respectfully requests that the Court grant an Order authorizing the examination and production of documents by the Debtor Donco Donev and third parties with information concerning the Equipment pursuant to Bankruptcy Rule 2004, and for any additional and further relief as the Court deems just and proper.

Dated: August 20, 2021

Respectfully submitted,

U.S. BANK EQUIPMENT FINANCE, a division of
U.S. BANK NATIONAL ASSOCIATION

By: /s/ C. Randall Woolley
C. Randall Woolley (ARDC # 06280067)

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